



April 24, 2006

MEMO ENDORSED

Via Overnight Mail

Honorable Kenneth M. Karas
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street, Room 920
New York, New York 10007

RE: *Elektra v. Barker*, No. 05 CV 7340 (KMK)

Judge Karas:

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 4/28/06
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On behalf of the Electronic Frontier Foundation (EFF), I write to seek leave to file a memorandum of law of no more than 5 pages in response to the Statement of Interest of the United States filed in the above-referenced case on April 21, 2006.

On February 23, 2006, pursuant to letter order of this Court, EFF filed an *amicus curiae* brief in the above-referenced action addressing the proper scope of the limited "distribution right" granted to copyright owners by 17 U.S.C. § 106(3). In its Statement of Interest filed last week, the United States focused its arguments on the issues raised by the EFF *amicus* brief and made arguments that had not previously been raised by any of the parties or *amicus curiae*. EFF respectfully requests an opportunity to respond to these new arguments.

Respectfully submitted,

A handwritten signature in cursive script, likely belonging to Fred von Lohmann.

Fred von Lohmann
Senior Intellectual Property Attorney
(415) 436-9333 x123

cc: J. Christopher Jensen, Esq. (by fax)
Ray Beckerman, Esq. (by fax)
Andrew P. Bridges, Esq. (by fax)
Eric J. Schwartz, Esq. (by fax)
Rebecca C. Martin, Esq. (by fax)

Denied,

SO ORDERED

A handwritten signature in cursive script, likely belonging to Kenneth M. Karas.

KENNETH M. KARAS U.S.D.J.